

**CITY OF MERCER ISLAND
ORDINANCE NO. 26C-11**

**AN ORDINANCE OF THE CITY OF MERCER ISLAND, WASHINGTON,
AMENDING CHAPTER 15.11 OF THE MERCER ISLAND CITY CODE
RELATING TO FEE IN LIEU OF STORM WATER DETENTION; PROVIDING
FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.**

WHEREAS, in compliance with the Washington State Growth Management Act (GMA), Chapter 36.70A RCW, the City of Mercer Island adopted a Comprehensive Plan in 1994 and has amended the plan on several occasions since that time; and

WHEREAS, on November 19, 2024, the City Council adopted Ordinance No. 24C-16, which updated the Mercer Island Comprehensive Plan and concluded the periodic review required by the GMA; and

WHEREAS, on February 15, 2025, an appeal of the Comprehensive Plan update adopted by Ordinance Nos. 24C-16 and 24C-18 was filed with the Growth Management Hearings Board (GMHB), case No. 25-03-0003; and

WHEREAS, on August 1, 2025, the Growth Management Hearings Board (GMHB) issued a final decision and order (Order) remanding four issues to the City: analyze development capacity, disaggregating housing capacity by affordability level; establish adequate provisions for affordable housing concurrent with the adoption of the amended Comprehensive Plan; establish a subarea plan for the area around the light rail station concurrent with the adoption of the amended Comprehensive Plan; and establish anti-displacement measures concurrent with the adoption of the updated Comprehensive Plan; and

WHEREAS, the GMHB Order required the City to adopt compliant amendments to the Comprehensive Plan and development code no later than July 31, 2026; and

WHEREAS, between receiving the GMHB Order and Council beginning its consideration on the issues in January 2026, the City began aggressively working to meet the July 31, 2026 deadline by analyzing the requirements in the GMHB Order; engaging in a revised land capacity analysis; studying impacts of increased density on water, sewer, stormwater, and transportation infrastructure; outlining a new subarea plan, and planning an updated SEPA review; and

WHEREAS, during review of the Utilities Element to address potential stormwater impacts from changes to the Comprehensive Plan, Utilities Element Policies 4.7 and 4.8 were added to address the potential stormwater impacts of the Station Subarea Plan; and

WHEREAS, Utilities Element Policies 4.7 and 4.8 must be implemented concurrently with the adoption of the Comprehensive Plan update to maintain internal consistency between the Comprehensive Plan and the Mercer Island City Code (MICC); and

WHEREAS, implementation of Utilities Element Policy 4.7 requires a corresponding amendment to MICC 15.11.020(B) to maintain consistency between the Comprehensive Plan and the Mercer Island City Code (MICC); and

WHEREAS, on May 20, 2026, the City notified the Washington State Department of Commerce (Commerce) of the intent to adopt Comprehensive Plan and development code amendments (ID 2026-S-12847); the Commerce 60-day review period concluded on July 19, 2026; and

WHEREAS, on May 20, 2026, the City's State Environmental Policy Act (SEPA) Responsible Official issued a determination of nonsignificance (DNS) for non-project actions to amend the City's Comprehensive Plan, adopt a Station Subarea Plan, and adopt associated amendments to Title 19, Title 15, and Title 5 of the MICC; and

WHEREAS, consistent with Chapter 19.21 MICC, the SEPA determination was posted in the Community Planning and Development Bulletin and posted to the statewide SEPA register (no. 202602132); and

WHEREAS, on June 3, 2026, the comment period on the SEPA determination closed and no comments on the DNS were received; and

WHEREAS, a public hearing on this ordinance was held by the City Council at its Meeting on July 21, 2026, prior to passing the ordinance;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MERCER ISLAND, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Whereas Clauses Adopted. The "Whereas Clauses" set forth in the recital of this Ordinance are hereby adopted as the preliminary findings and conclusions of the City Council for passing this ordinance.

Section 2. Amendment of MICC 15.11.020. MICC 15.11.020 is amended as follows

15.11.020 - Fee in lieu.

- A. The developer may pay a fee in lieu of constructing the storm water detention facilities required by MICC 15.09.050, when authorized by the city engineer. The fee is based on 100 percent of the estimated cost of constructing a detention facility on site and excludes the costs associated with designing such a facility. The developer shall submit a one-quarter mile downstream analysis and calculations determining the total new plus replaced impervious surface area as the basis for determining the fee amount by the city engineer.
- B. A developer will not have the option to pay a fee in lieu of constructing a storm water detention facility if:~~in the opinion of the city engineer, u~~
 - 1. Undetained runoff from the development may materially adversely exacerbate an existing downstream drainage, flooding, erosion, or water quality problem; or
 - 2. The development is located within the Town Center or another constrained drainage basin identified by the City, where onsite stormwater management and detention are required to maintain stormwater system performance and protect downstream facilities and receiving waters.

Section 3. Severability. If any section, sentence, clause, or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, or its application held inapplicable to any person, property, or circumstance, such

invalidity or unconstitutionality shall not affect the validity of any other section, sentence, clause, or phrase of this ordinance or its application to any other person, property, or circumstance.

Section 4. Publication and Effective Date. A summary of this ordinance consisting of its title shall be published in the official newspaper of the City. This ordinance shall take effect and be in full force five days after the date of publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF MERCER ISLAND, WASHINGTON, AT ITS MEETING ON JULY 21, 2026.

CITY OF MERCER ISLAND

David Rosenbaum, Mayor

Approved as to Form:

ATTEST:

Bio Park, City Attorney

Andrea Larson, City Clerk

Date of Publication: